

AO 120 (Rev. 2/99)

<b>TO: Mail Stop 8</b> <b>Director of the U.S. Patent &amp; Trademark Office</b> <b>P.O. Box 1450</b> <b>Alexandria, VA 22313-1450</b>	<b>REPORT ON THE</b> <b>FILING OR DETERMINATION OF AN</b> <b>ACTION REGARDING A PATENT OR</b> <b>TRADEMARK</b>
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In Compliance with 35 § 290 and/or 15 U.S.C. § 1116 you are hereby advised that a court action has been  
 filed in the U.S. District Court Northern District of California on the following ☒ Patents or ☐ Trademarks:

DOCKET NO. CV 11-02468 MEJ	DATE FILED 5/20/11	U.S. DISTRICT COURT Northern District of California
PLAINTIFF EIT HOLDING LLC		DEFENDANT PRICELINE.COM, INC
PATENT OR TRADEMARK NO.	DATE OF PATENT OR TRADEMARK	HOLDER OF PATENT OR TRADEMARK
1 5,828,837		
2		
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In the above—entitled case, the following patent(s) have been included:

DATE INCLUDED	INCLUDED BY <input type="checkbox"/> Amendment <input type="checkbox"/> Answer <input type="checkbox"/> Cross Bill <input type="checkbox"/> Other Pleading		
PATENT OR TRADEMARK NO.	DATE OF PATENT OR TRADEMARK	HOLDER OF PATENT OR TRADEMARK	
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In the above—entitled case, the following decision has been rendered or judgement issued:

DECISION/JUDGEMENT
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CLERK Richard W. Wieking	(BY) DEPUTY CLERK Gloria Acevedo	DATE May 23, 2011
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Copy 1—Upon initiation of action, mail this copy to Commissioner    Copy 3—Upon termination of action, mail this copy to Commissioner  
 Copy 2—Upon filing document adding patent(s), mail this copy to Commissioner    Copy 4—Case file copy

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17 EIT Holdings LLC

18 UNITED STATES DISTRICT COURT  
19 NORTHERN DISTRICT OF CALIFORNIA

20 EIT HOLDINGS LLC, a Delaware company,

21 Plaintiffs,

22 vs.

23 PRICELINE.COM, INC., a Delaware  
24 Corporation,

25 Defendants.

**ORIGINAL FILED**

MAY 20 2011

Richard W. Wieking  
Clerk, U.S. District Court  
Northern District of California  
San Jose

**MEJ**

**CV 11-02468**

Case No.

**ORIGINAL COMPLAINT  
FOR: PATENT INFRINGEMENT**

**DEMAND FOR JURY TRIAL**

**ORIGINAL COMPLAINT**

26 Plaintiff EIT Holdings LLC ("Plaintiff" or "EIT"), files this Original Complaint against  
27 Priceline.com, Inc. ("Priceline") alleging as follows:

**THE PARTIES**

28 1. Plaintiff, EIT Holdings LLC is a limited liability company organized under the  
laws of the state of Delaware, having its principal place of business at 2711 Centerville Road,  
Suite 400, Wilmington, DE, 19808.

2. Defendant Priceline.com Incorporated, on information and belief, is a corporation organized under the laws of the state of Delaware, and has a principal place of business at 800 Connecticut Ave., Norwalk, CT 06854-9998. Priceline can be served through its Counsel, Ryan M. Kent, Durie Tangri, 217 Leidesdorff Street, San Francisco, CA 94111.

### **JURISDICTION & VENUE**

3. This is an action for infringement of a United States patent. Accordingly, this action arises under the patent laws of the United States of America, 35 U.S.C. § 1 et seq., and jurisdiction is properly based on 35 U.S.C. § 271 and 28 U.S.C. § 1338(a).

4. Venue is proper in this district under 28 U.S.C. §§ 1391(b-c) and 1400(b). Upon information and belief, the Defendant transacts or has transacted business in this judicial district, or committed and/or induced acts of patent infringement in this district.

### **PATENT INFRINGEMENT COUNT**

5. On December 10, 2010, EIT initially filed against Priceline and other defendants in the District of Delaware. Priceline requested it be dismissed from the Delaware action and joined to an ongoing action in the Northern District of California (C-10-05623-WHA) before the Honorable William H. Alsup. EIT complied. However, on May 11, 2011, Judge Alsup held that the Defendants, including Priceline, were improperly joined. He dismissed all except the first-named Defendant and invited counsel to re-file against each Defendant in a separation action.

6. On October 27, 1998, United States Patent No. 5,828,837 ("the '837 patent") entitled "Computer Network System and Method for Efficient Information Transfer" was duly and legally issued. EIT holds the title by mesne assignments from the inventor, including the right to sue for past, present and future damages. A copy of the '837 patent is attached as Exhibit A. The '837 patent is directed to a method and system that maintains a profile for registered users and then transmits references to target information to the users based on their profile.

7. Pursuant to 35 U.S.C. § 282, the '837 patent is presumed valid.

8. To the extent necessary, Plaintiff has complied with the notice and marking requirements of 35 U.S.C. § 287.

1           9.       Priceline utilizes a website that provides commercial and non-commercial  
2 information or allow users to buy products or services. Its website allows users to register and  
3 create a user account, which includes a unique id such as a unique email address or a user defined  
4 unique username for ordering or accessing information. Priceline receives and stores information  
5 about the users in a database through the use of a web connected server. When a registered user  
6 accesses Priceline's website, references to commercial and non-commercial target information,  
7 such as advertisements, additional content on areas of interest or information about additional  
8 products, are transmitted to the user and displayed on his or her web accessible device including  
9 but not limited to a desktop computer, a laptop computer, a mobile phone or a game console.  
10 Priceline determines appropriate target information for each user based on the user profile  
11 information including but not limited to demographics, personal preferences, interests, past  
12 content viewing history and past purchase history.

13           10.      Priceline, on information and belief, utilizes a computer network system and  
14 method for transferring information that infringes at least claims 40 and 41 of the '837 patent, by  
15 utilizing the features described in Paragraph 9 on at least its website www.Priceline.com and/or  
16 other websites utilizing similar features. By making, operating, using and/or selling such websites,  
17 Priceline has infringed and continues to infringe, contribute to the infringement of, or induce the  
18 infringement of at least claims 40 and 41 of the '837 patent, either literally or under the doctrine  
19 of equivalents.

20           11.      Accordingly, Pricelines' acts of infringement of the '837 patent, as alleged above,  
21 have injured Plaintiff and thus, Plaintiff is entitled to recover damages adequate to compensate it  
22 for Priceline's acts of infringement, which in no event can be less than a reasonable royalty.

23                               **DEMAND FOR JURY TRIAL**

24           12.      Plaintiff hereby demands a jury trial on all claims and issues.

25                               **PRAYER FOR RELIEF**

26           Wherefore, Plaintiff prays for entry of judgment:

27           1.       that Defendant Priceline.com, Inc.. has infringed one or more claims, specifically  
28 claims 40 and 41, of the '837 patent;

1           2.       that Defendant Priceline.com, Inc. accounts for and pays to Plaintiff all damages  
2 caused by the infringement of the '837 patent, which by statute can be no less than a reasonable  
3 royalty;

4           3.       that Plaintiff be granted pre-judgment and post-judgment interest on the damages  
5 caused to them by reason of Defendant Priceline.com Inc.'s infringement of the '837 patent;

6           4.       that costs be awarded to Plaintiff; and

7           5.       that Plaintiff be granted such other and further relief as the Court may deem just  
8 and proper under the current circumstances.

9 Dated: May 20, 2011

Respectfully submitted,

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11 By: 

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